REMARKS

Applicants have amended claims 1-3 to more appropriately define the claimed subject matter. Claims 1-3, 5, and 6 are pending in this application.

Objections to Claims 2 and 3

The Examiner objected to claim 2, line 3, stating "it appears that 'at least male or female and the age' should be --at least one of gender and age--." (Office Action, page 2, paragraph 2).

The Examiner also objected to claim 3, line 4, stating "it appears that 'memory of' should be --memory for--." (Office Action, page 2, paragraph 2).

In addition, the Examiner objected to claim 3, line 8, stating "it appears that 'display of' should be --display for--." (Office Action, page 2, paragraph 2).

Applicants thank the Examiner for the helpful suggestions. Applicants submit that the amendments of claims 2 and 3 obviate the Examiner's objections to claims 2 and 3. Accordingly, Applicants request that the Examiner reconsider and withdraw the objections to claims 2 and 3.

§ 112, First Paragraph, Rejection of Claims 1 and 3

Applicants respectfully traverse the rejection of claims 1 and 3 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner asserts that, "[c]laim 1, line 17 states, 'a first display.' At claim 3, line 8, 'a second display' is claimed. However, the original disclosure does not appear to support... two displays." (Office Action at page 3). In

response, Applicants have amended claims 1 and 3 to only recite one display. Applicants therefore request that the Examiner reconsider and withdraw the rejection under § 112, first paragraph.

§ 112, Second Paragraph, Rejection of Claims 3 and 6

Applicants respectfully traverse the rejection of claims 3 and 6 under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as the invention. Although the Examiner set forth specific grounds for the rejection of claim 3, the Examiner did not provide any specific grounds for rejecting claim 6. Applicants assume the Examiner rejected claim 6 due to its dependence from claim 3. If Applicant's assumption is not correct, they request that the Examiner further explain the grounds for rejecting claim 6.

In reference to claim 3, at line 4, the Examiner alleged, "a memory of storing..." is not particularly pointed out and distinctly claimed because it is unclear whether "personal information" is recited because the value is also calculated based on the personal information or if the language requires that the memory also stores the personal information. The Examiner further asserts, with reference to claim 3, that the meaning of "indicating sequentially" is unclear when only one approximate value is indicated.

Applicants submit that their amendments to claim 3 overcome the Examiner's grounds for rejection under § 112, second paragraph. Applicants therefore request that the Examiner reconsider and withdraw this rejection.

§ 103(a) Rejection of Claims 1-3, 5, and 6 over *Shimomura* and *Kawanishi*

Applicants respectfully traverse the rejection of claims 1-3, 5, and 6 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,539,310 of Shimomura ("*Shimomura*") in view of Japanese Patent Publication No. 11-123182 to Kawanishi. ("*Kawanishi*"). *Shimomura* and *Kawanishi* do not render obvious the subject matter that is recited in claim 1.

"A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." MPEP § 2145. Furthermore, "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. MPEP §2143.01(III) (internal citation omitted). Moreover, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." MPEP § 2141.02(I) (emphasis in original; internal citations omitted).

Shimomura fails to teach or suggest "means for calculating at least one of approximate values of bone weight, water weight, and muscular weight of the body, as well as means for judging a somatotype of the body . . . classified on the basis of a correlation between the approximate values as calculated and the body weight," as recited in amended claim 1 (emphasis added).

Shimomura discloses, "a body type determination apparatus 10 comprises a bioelectric impedance meter 20 equipped with a weight scale and a control box 40" (col. 3, lines 56-58). "[T]he bioelectric impedance meter 20 equipped with the weight scale comprises: the constant current feeding electrodes 21a and 21b; ... the voltage measuring electrodes 22a and 22b; a voltage measuring circuit 24 functioning as an impedance measurement device for measuring a voltage between said voltage measuring electrodes 22a and 22b; [and] a body weight measuring unit 25 functioning as a body weight measurement device for measuring a body weight of a subject" (col. 4, lines 9-19). "[T]he control box 40 comprises: a data input device 41" (col. 4, lines 21-22). "[T]he apparatus displays a relationship between the BMI and the FMI and/or between the BMI and the LMI as a result of measurement by way of a graph and/or illustration" (col. 3, lines 42-45).

The Examiner cites Figure 7 of *Shimomura* for an alleged teaching of "a correlation between BMI and LMI. LMI corresponds to muscular weight and BMI is calculated based on body weight." (Office Action, page 6, paragraph 12). The LMI (Lean Mass Index) does not correspond to muscular weight. The LMI is equal to lean mass/body height^2. (Shimomura, col. 3, line 40). The lean mass itself is equal to body weight – body fat mass. (Shimomura, col. 5, lines 59). Simply removing the body fat mass from the body weight does not provide the muscle weight, as the human body contains many other things like water, bone, organs and other tissues. Therefore, the determination of LMI by *Shimomura* does not constitute an independent calculation of "at least one of bone weight, water weight, and muscular weight of the body," as required by Applicant's claim 1.

Further, *Kawanishi* does not overcome the deficiencies of *Shimomura*. The Examiner cites *Kawanishi* for an alleged teaching of "a belt that includes the plurality of pairs of electrodes." (Office Action at page 5). Without acceding to the Examiner's characterization of *Kawanishi*, Applicants submit that *Kawanishi* at very least fails to disclose or suggest any feature related to the "means for calculating" and "means for judging" of claim 1. Therefore, *Kawanishi* fails to overcome the deficiencies of *Shimomura*.

Accordingly, claim 1 should be allowable over *Shimomura* and *Kawanishi*, so that this rejection should be withdrawn. Additionally, dependent claims 2-3, 5 and 6 should also be allowable over *Shimomura* and *Kawanishi* at least by virtue of their dependence from allowable independent claim 1.

CONCLUSION

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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